

# SENTENCING COMMISSION MINUTES

<b>Committee</b>	<b>Utah Sentencing Commission</b>
<b>Date</b>	Wednesday, June 1, 2016
<b>Time</b>	Noon – 2 p.m.
<b>Location</b>	Utah State Capitol, Senate Caucus Room
<b>Members Present</b>	Patrick Anderson, Judge Mark Andrus, Chyleen Arbon, Craig Barlow, Chief Craig Black, Paul Boyden, Susan Burke, Darin Carver, Judge Michele Christiansen, Mike Haddon for Rollin Cook, Sen. Gene Davis, Al Emery, Scott Garrett, Ron Gordon, Rachelle Hill, Rep. Brian King, Judge Thomas Low, Richard Mauro, Peter Stirba, Senator Dan Thatcher, Judge Vernice Trease, Pam Vickrey, Christina Zidow
<b>Members Excused</b>	Shima Baughman, Judge Julie Lund, Rep. Marc Roberts, Sheriff James Tracy
<b>Staff &amp; Visitors</b>	Staff: Krystal Hazlett, Jo Lynn Kruse, Holly Langton, Dr. Ben Peterson, David Walsh, Doreen Weyland Visitors: Dan Blanchard (AP&P), Anna Brower (ACLU), Larry Haefeli (SL Co Probation)
<b>Agenda Item</b>	<b>Welcome – Approval of Minutes</b>
<b>Notes</b>	Peter Stirba called the meeting to order and welcomed everyone. Susan Burke made the <b>motion</b> to approve the April minutes. Craig Barlow <b>seconded</b> the motion which <b>passed unanimously</b> .
<b>Agenda Item</b>	<b>Review of Subcommittee Notes and Votes</b>
<b>Notes</b>	<p><b>Legislation Development Status &amp; Consensus Building Strategy–</b> Jennifer Valencia noted the two handouts referred to as <i>Subcommittee Notes &amp; Votes</i>, from May and June. The May notes discussed 2016 legislative bills that did not pass. Additional issues identified by the Sentencing Commission were: Aggravated Kidnapping §76-5-302, Felony Theft §76-6-412, Strict Liability Juvenile Sex Offenses §76-5-402.1 &amp; §77-2-9(2), Criminal Accounts Receivable Recodification, and Amounts/weights in Drug Distribution Offenses.</p> <p>The June notes covered the following: The Guidelines Subcommittee voted unanimously in support of removal of the word “immediate” from the exceptions to the graduated sanction caps contained in Form 10. Members will solicit feedback regarding the inclusion of a presumptive definition of substantial public safety threat. The subcommittee also expressed no interest in further nuancing the crime categories (columns) in the Guidelines to better reflect the distinction between possession offenses and distribution or manufacturing offenses.</p> <p>Some interest was expressed in establishing presumptive amounts for distribution offenses in order to distinguish between possession and possession with intent to distribute. Members will further discuss these issues with their respective groups and report back as to any consensus. Other topics discussed were: A proposed alternative version of the RIM, Pre-Trial and Parole release decision making tools, and an info-graphic explanation of various tools at various stages illustrating JRI impacts to be included in this year’s Guidelines.</p> <p>Issues under advisement are: Work with the Judicial Council on the selection of a statewide pre-trial tool, a complete review of the aggravating and mitigating circumstances, the issue of earned compliance credits for both sex offenders and DUI offenders, and offenders who are eligible for such credits appear to be more actively engaged in supervision and more compliant with case action plans.</p> <p>The Anomalies Subcommittee addressed two specific proposed pieces of legislation regarding felony theft and aggravated kidnapping. Jennifer will follow up with locating more specific information on the two cases she is aware of and will locate the Pew/CCJJ data slides which were presented in 2014 and forward any information to the group via email. Also discussed was a proposed amendment to the aggravated kidnapping statute. The subcommittee voted unanimously to take both issues under advisement and encourage further discussion with respective groups. Next meeting is June 21 at noon.</p> <p>The Misdemeanor Subcommittee discussed the most recent draft of criminal accounts receivable, scheduling meetings with OVC, SWAP, and AP&amp;P. Also discussed were expunction, and driver license issues. Judge McCullagh will review the 2012 and 2014 legislation and prepare a draft for the next subcommittee meeting to consider. Next meeting on July 29 at noon.</p> <p>The Juvenile Justice Subcommittee discussed two specific proposed pieces of legislation regarding delayed reporting of sexual offenses committed while a juvenile; and strict liability for juvenile sex offenses between juveniles of a similar age. General consensus was expressed that alleged juvenile offenses should be filed in juvenile court. A revised draft will be circulated to the group for further review. Unanimous support was expressed to pursue legislation in this area. Once a draft is finalized further meetings with specific legislators will be held to determine whether legislative support exists. Additional discussions regarding the revised draft of Juvenile Disposition Guidelines followed. The next Juvenile Justice Subcommittee will be held on June 17 at noon.</p>

<b>Agenda Item</b>	<b>Update from JRI ITF</b> (tape 19:45)
<b>Notes</b>	<p>Doreen Weyland noted that the JRI Implementation Task Force is moving forward and meeting monthly. Doreen presented a handout regarding treatment money (4.5 million appropriated to the Division of Substance Abuse and Mental Health for treatment funding for JRI clientele). The funds went out to local area authorities (13 of them) and are formula based. Some counties are combined. The counties are required to make a 20% match and file an annual plan online. The funding will be tracked to ensure that the money goes to the treatment side of JRI clientele. Performance measures will also be tracked. Part of the 4.5 million was ongoing whereas 1.5 million was one-time out of the 2015 general legislative session. This last legislative session, the 1.5 million was moved to ongoing.</p> <p>Approximately \$4,000 will be available to JRI clients through Medicaid. The Risk &amp; Needs Screening that is taking place in the jails is almost complete. There are three independent jails, Salt Lake, Cache and Davis, who do their own screening of their own population. Three jails are the "hub jails" and are doing screening for satellite jails (Weber, Utah and Washington counties). Weber is fully functional with all their satellite jails, Utah county is functional with only one satellite at present and Washington is working on connectivity.</p> <p>The Pre-trial Instrument was the Commission's priority B, with CPIP monies, and an application to the Arnold Foundation. The Arnold Foundation did not choose Utah for this year to have the PSA Court Instrument in place. We worked with CJI on the possibility of developing an instrument. The bid came in and it's quite high. Doreen presented it to the Commission and there was a motion that we involve the judicial council's pre-trial release and supervision standing committee, to make a recommendation back to the Commission. So as soon as that standing committee has its membership assigned, we hope to meet with them and show them what we've got set up in the jails and possibly identify an instrument that will work with us. It may end up eventually that there will be a Utah Instrument; it's all to be decided.</p> <p>The courts are speaking with the Arnold Foundation on the possibility of having Arizona, who has fully implemented the instrument, to come up and be the TA's for Utah and allow Utah to have access to this instrument. Doreen is looking for grants and other resources. There is a focus on trying to get a certification process for drug treatment in place.</p>
<b>Agenda Item</b>	<b>2015 Sentencing Guidelines Analysis</b> (tape 48:00)
<b>Notes</b>	<p><b>Early Feedback Received –</b></p> <ol style="list-style-type: none"> <li>1. All prior conduct should be limited to past 10 years</li> <li>2. Add a category for 5+ felony convictions (10 points)</li> <li>3. Add Class B priors back in, but weight them lower</li> <li>4. Separate supervision categories (positive supervision history and negative supervision history)</li> <li>5. Person crime with injury (4 points) should require "substantial bodily" injury</li> <li>6. Consolidate Form 1 and Form 5</li> <li>7. Forms 2 &amp; 4 need comprehensive review, outdated language and concepts</li> <li>8. 2<sup>nd</sup> and 3<sup>rd</sup> Degree "Other" should be nuanced to address distribution separately from theft, property, etc.</li> <li>9. Add all person crimes to Addendum B specifically (don't just reference the habitual offender statute)</li> <li>10. Add "+" to Form 10 on the line listing the number of hearings before the Court or Board. It should be the nature of violations, not the number of violations which is determinative.</li> </ol> <p><b>Member Discussion –</b> Some raised concern about juveniles, which we did not discuss last year Five felony convictions – would like to see more points listed there</p> <p><b>Public Comment –</b> No public comments were made.</p> <p><b>Priorities for Guideline Subcommittee –</b> Review current forms 2 and 4 first Selection of a statewide pre-trial tool The issue of earned compliance credits for both sex offenders and DUI offenders Offenders who are eligible for such credits appear to be more actively engaged in supervision and more compliant with case action plans. Compliance by all offenders would appear to be of equal importance. Request that the DUI Subcommittee of USAMHAC address the issue of DUI supervision time credits first and take both issues under advisement.</p>
<b>Agenda Item</b>	<b>NASC Conference August 7 – 9, 2016</b> (tape 1:21)
<b>Notes</b>	<p><b>Suggestions for Speakers/Topics –</b> If you have any ideas or suggestions for panelists, please contact Jennifer.</p> <p><b>Volunteers to assist during conference –</b> Judge Christiansen suggested that Law students may be able to volunteer. Also Jennifer would like as many from the Sentencing Commission that can come to do so.</p> <p><b>Generating local interest/participation –</b> Jennifer encouraged the Commission to get the word out about the conference to their respective communities.</p>

Next Meeting	The next meeting of the Sentencing Commission will be on August 3, 2016 at Noon, Utah State Capitol Bldg., Senate Caucus Room.
--------------	--

Minutes prepared by Jo Lynn Kruse – Administrative Assistant, CCJJ